

**ORDINANCE NO. 770**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA, CALIFORNIA, TO UPDATE AND AMEND LOMA LINDA MUNICIPAL CODE CHAPTER 8.12, REFUSE COLLECTION, RECYCLING AND DISPOSAL, TO IMPLEMENT SB 1383, THE SHORT-LIVED CLIMATE POLLUTANT REDUCTION ACT OF 2016 RELATED TO SINGLE FAMILY, MULTIFAMILY AND COMMERCIAL ORGANICS COLLECTION, AND EDIBLE FOOD WASTE COLLECTION PROGRAMS.**

**WHEREAS**, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Cities to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

**WHEREAS**, State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires cities to implement a Mandatory Commercial Recycling program.

**WHEREAS**, State organics recycling law, Assembly Bill 1826 of 2014 approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires cities to implement a Mandatory Commercial Organics Recycling program.

**WHEREAS**, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery (“CalRecycle”) to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including the City of Loma Linda, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.

**WHEREAS**, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the City of Loma Linda to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible

Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

**WHEREAS**, this Ordinance implements the requirements of AB 341, AB 1826, and SB 1383 Regulations.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Loma Linda City Council:

**SECTION 1. Adoption of Ordinance.** The foregoing Recitals are adopted as findings of the City Council as though set forth fully within the body of this Ordinance.

**SECTION 2. Code Amendments.** Chapter 8.12 of the Loma Linda Municipal Code for the City of Loma Linda (“Code”) is hereby deleted in its entirety and replaced with the following new Chapter 8.12.

**8.12.010 Collection by city or agent required.**

All refuse collection service from all places and premises shall be by the city or its agent, and it shall be mandatory for all occupants or persons in possession, charge or control of such places and premises in the city in or from which refuse is created, accumulated or produced to use the city’s collection service; provided, however, that there may be joint or multiple use of refuse containers, subject to authorization therefor pursuant to rules and regulations as established by the council. It is unlawful for any person other than authorized agents or employees of the city to collect, remove or dispose of refuse in the city; provided, however, that nothing contained herein shall prevent the use of garbage disposal devices as permitted by the city.

**8.12.120 Contracts—Letting and termination.**

- A. The City Council may let contracts for the accumulation and disposal of refuse as provided for in this chapter and may, as a condition for granting such contract, require a bond from the contractor in an amount determined by the council for the faithful performance of such agreement. In case the contractor fails or refuses to conform to the conditions of such agreement in this chapter, the city council, at its option and after hearing, of which the contractor shall have ten days’ notice in writing, may terminate such agreement and let the contract to another person being more capable of carrying out the terms of such agreement. In letting contracts for refuse disposal, the city council shall not be required to let the same to the lowest bidder, but shall be free to let such contract to the person best suited to comply with the terms and intent of this chapter.
- B. All refuse accumulated in the city shall be collected, conveyed and disposed of by the city or its agents. No other person shall collect, convey over any of the streets or alleys of the city, or dispose of any refuse accumulated in the city. Collectors of refuse from outside the city shall not be prohibited from hauling such refuse over city streets, provided such collectors comply with the provisions of this chapter and other applicable rules and regulations.

**8.12.030 Definitions.**

The following words and phrases whenever used in this chapter shall be construed as defined in this section:

“Authorized recycler” means any person or business entity which lawfully collects, accepts, transports or otherwise processes recyclable materials from generators for a fee or profit through a proper permit, business license or other regulatory structure or authorization issued by the city.

“Black Container” has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of black container waste. This definition shall be interchangeable with “Gray Container.”

“Black Container Waste” means solid waste that is collected in a Black Container that is part of the three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Black container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(65). This definition shall be interchangeable with “Gray Container Waste.”

“Blue Container” has the same meaning as in the 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

“Business” means any commercial entity, including, but not limited to: proprietorship, firm partnership, person in representative or fiduciary capacity, capacity, association, venture, trust, corporation which is organized for financial gain or for profit; or nonprofit corporation or entity, or industrial or manufacturing, restaurant, retail facility, markets, office buildings, hotels, motels, shopping centers, and theaters.

"CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on Cities (and others).

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

“City” means city of Loma Linda.

“City Manager” means the city manager of the city of Loma Linda or any person designated by the city manager.

“City Enforcement Official” means the city manager, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing Chapter 8.12.

“Code Enforcement Officer” means the employee charged by the city with the responsibility for the enforcement of the Loma Linda Municipal Code, ordinances and regulations.

“Collect or collection” means to take physical possession of and remove solid waste or recyclable materials at the place of generation.

“Combustible waste matter” includes and means magazines, books, hats, trimmings from lawns, trees and flower gardens, pasteboard boxes, rags, paper, straw, sawdust, packing material, shavings, boxes and all such material that will incinerate through contact with flames of ordinary temperature.

"Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential

Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.

"Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein below in this Section 8.12.030 or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

"Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

"Compliance Review" means a review of records by City to determine compliance with Chapter 8.12.

"Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

"Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

"Container Contamination" or "Contaminated Container" means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

"C&D" means construction and demolition debris.

"Customer" means a generator that contracts for solid waste removal services and enters into a service agreement with a franchised hauler or authorized recycler for recycling services. In the event a business, nonresidential property or commercial facility shares solid waste or recycling containers and/or service, "customer" refers only to the entity that arranges for service.

"Designee" means an entity that City contracts with or otherwise arranges to carry out any of the City's responsibilities of Chapter 8.12 as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

"Director" means director of public works or the director's designee.

"Disposal" means the final disposition of solid waste at a permitted landfill or other permitted solid waste disposal facility, as defined in California Public Resources Code Section 40192.

"Diversion or divert" means the final reduction or elimination of solid waste from solid waste disposal in accordance with California Public Resources Code Section 40192.

"Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes 4 of Chapter 8.12 or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in Chapter 8.12 or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

"Enforcement Action" means an action of the City to address non-compliance with Chapter 8.12 including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including without limitation: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that, in City's, or its Designee's reasonable opinion, would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

"Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

"Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

"Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- 1) A food bank as defined in Section 113783 of the Health and Safety Code;
- 2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
- 3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of Chapter 8.12 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to Chapter 8.12.

"Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of Chapter 8.12 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

"Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

"Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

"Food-Soiled Paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

"Food Waste" means Food Scraps, Food-Soiled Paper, and Compostable Plastics.

"Franchise" means commercial solid waste collection franchise contracted for or issued by the city to a hauler.

"Franchised hauler" means a hauler holding a franchise, contract, license or permit issued by the city which authorizes the exclusive or nonexclusive right to provide solid waste handling services within all or part of the City boundaries of the city.

"Generator" means an owner or responsible party for a commercial facility(ies) or business, including nonresidential property which generates recyclable or compostable materials as a result of its business, commercial facility(ies) or property activity. Generator may also include tenants, property managers for facilities with leased space, employees and contractors of the generator, as well as a responsible party for special events. Generator also includes the city, its facilities, its nonresidential properties and special events, its sponsors or cosponsors.

"Gray Container" has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

"Gray Container Waste" means Solid Waste that is collected in a Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). Gray Container Waste may specifically include carpet, Non-Compostable Paper and textiles.

"Green Container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

"Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

"Hauler" means any person or commercial entity which lawfully collects, hauls, or transports solid waste for a fee by use of any means, including, but not limited to, a dumpster truck, roll-off truck, side-load, front-load, rear-load hauler truck or trailer.

"Hauler Route" means the designated itinerary or sequence of stops for each segment of the City of Loma Linda's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)( 11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

"Inspection" means a site visit where City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in Chapter 8.12, or as otherwise defined in 14 CCR Section 18982(a)(35).

“Landfill” means a permitted disposal site which accepts solid waste.

"Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to Chapter 8.12.

“Large Venue means a permanent venue facility that annual seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of Chapter 8.12 and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of Chapter 8.12 and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR, Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to Chapter 8.12.

"Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of City or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

“Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

"MWELo" refers to the Model Water Efficient Landscape Ordinance (MWELo), 23 CCR, Division 2, Chapter 2.7.

"Non-Compostable Paper" includes but is not limited to paper that is coated in plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

"Non-Local Entity" means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

- 1) Federal facilities, including Veterans Administration installations, located within the boundaries of the City, including Jerry L. Pettis Memorial Veterans Hospital.
- 2) State agencies located within the boundaries of the City, including California Highway Patrol Facility.

"Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

"Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Occupant” includes and means every owner, tenant, occupant or person having the care or control of any premises within the city.

"Organic Waste" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

"Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

"Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

"Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

"Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Black Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in City's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

"Recovered Organic Waste Products" means products made from California, landfill diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

"Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

"Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61). "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Black Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

"Renewable Gas" means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

"Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

"Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).



"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of Chapter 8.12, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

"Single-Family means of, from, or pertaining to any residential premises with fewer than five (5) units.

"Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- 1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- 2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code.
- 3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

"Source Separated" means materials, including commingled recyclable materials that have been separated or kept separated from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused or reconstituted products, which meet the quality standards necessary to be used in the marketplace or as otherwise defined in 14 CCR Section 17402.5(6)(4). For the purposes of Chapter 8.12, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Black Container or other Solid Waste for the purposes of collection and processing.

"Source Separated Blue Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a) (18.7).

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

"Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

"State" means the State of California.

"Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- 1) Supermarket.
- 2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- 3) Food Service Provider.
- 4) Food Distributor.
- 5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to Chapter 8.12.

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- 1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- 2) Hotel with an on-site Food Facility and 200 or more rooms.
- 3) Health facility with an on-site Food Facility and 100 or more beds.
- 4) Large Venue.
- 5) Large Event.
- 6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- 7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to Chapter 8.12.

"Uncontainerized Green Waste and Yard Waste Collection Service" or "Uncontainerized Service" means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(75).

"Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 18982(a)(76).

**8.12.040 Collection fees.**

Fees for the service collection of shall not exceed those ceilings as established by resolution by the city council.

**8.12.050 Unauthorized containers or offensive refuse a nuisance.**

The keeping of solid waste or source-separated materials in containers other than containers prescribed by this chapter or the keeping upon premises of solid waste or source-separated materials which is allowed to become offensive and noisome, shall constitute a public nuisance and may be abated in the manner provided by law for the abatement of nuisances.

**8.12.060 Containers—Required.**

It shall be the duty of every owner, lessee, manager and/or person in possession, charge or control of a building on any premises in the city to maintain at all times the hauler-provided convenient portable solid waste and source-separated containers upon said premises.

**8.12.070 Containers—Specifications.**

Each solid waste and source-separated material container shall be of sound construction and shall be watertight and shall have no ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents of the container. Containers shall be provided by the hauler.

**8.12.080 Containers—Covers required.**

All containers shall have a tight-fitting cover. The covers shall not be removed from containers except when necessary to place solid waste or source-separated materials therein or to remove refuse therefrom; at all other times, said cover shall be in place on said container.

**8.12.090 Containers—Placement generally.**

Each container shall be kept in or placed in such a manner as not to be visible from the public street and so as to be easily accessible to the hauler collector; provided, that during or for the time fixed for the collection of solid waste or source-separated materials from said containers, such containers shall be kept or placed as follows:

A Near Alley. Where there is an alley other than a blind alley in the rear of such premises, such container(s) shall be placed on the premises, within five feet of the rear property line.

B. On Curb. Where there is no alley other than a blind alley in the rear of the premises, each container shall be placed immediately behind the curb on a public street, in front of the premises. Where no curb exists, containers shall be placed in a position as though a curb did exist.

**8.12.100 Containers—Street placement time limits.**

No person shall place any container in any street, alley, sidewalk, court or other public way in the city at any time other than the regular time for collection service. Every person who so places a container for the purpose of solid waste or source-separated materials collection shall place the container(s) no earlier than sundown prior to the date of collection and shall remove same no later than seven p.m. of the day of collection.

**8.12.110 Unauthorized solid waste or source-separated materials deposit prohibited.**

No person shall deposit or cause or permit to be deposited any solid waste or source-separated materials upon or in any public street, alley or other public place, or upon any premises in the city, except in appropriate containers as provided in this chapter.

**8.12.120 Collection of unusual accumulations.**

For collection of unusual accumulations of solid waste or source-separated materials, or collection from locations not otherwise provided for in this chapter, reasonable collection charges may be charged as shall be agreed upon by the Hauler contractor and the customer; provided, that in all cases where a dispute arises as to the rate charged or to be charged for such unusual collection service, the matter shall be referred to the city council which shall determine and fix a maximum ceiling for such charge.

**8.12.130 Collection from public containers required.**

The contractor shall collect solid waste or source-separated materials from receptacles belonging to the city. The city shall keep containers at appropriate public locations within the city, including, but not limited to, parks, playgrounds, and public sidewalks in business areas, civic center, and other locations frequented by the public. After each holiday and other days when such parks and playgrounds have extraordinary use, collections shall be made. Regular collection shall be made once a week or on a greater frequency as necessary in order to ensure adequate service. Such collection shall be performed without charge to the city.

**8.12.140 Containers—Interference prohibited.**

It is unlawful for any person, other than the owner or person responsible for the container(s) or any officer, agent, or employee of such person or of the city or its agents, to interfere in any manner with any container or to remove any container or any of its contents or materials from the location where it was placed by the owner thereof.

**8.12.150 Containers—Placement of unauthorized substances prohibited.**

No person shall place or cause or permit to be placed in any solid waste or source-separated materials container any substance or material other than solid waste or source-separated materials as defined in this chapter.

**8.12.160 Collection vehicle specifications.**

All vehicles used in collecting and transporting solid waste or source-separated materials shall be provided with metal bodies and shall be so constructed as to be watertight and to prevent the loss of any contents being collected or transported therein upon the streets, alleys and other public ways in the city. Such vehicle shall be thoroughly cleansed daily so as to reduce or eliminate odors and decayed or rotten materials.

**8.12.170 Multifamily collection rates and frequency.**

Multifamily residential, commercial and industrial units shall have their solid waste or source-separated materials collected in the same manner and subject to such rate ceilings as the city council may adopt for various levels of service. The frequency of collection shall be negotiated individually but shall be collected at least once a week.

**8.12.180 Waivers —Authorized when—Application—Self-hauling permits.**

A. Where practical difficulties or results inconsistent with the general purposes of this chapter would occur from its strict literal enforcement, the city council may grant a waiver from certain or all of its provisions,

upon such terms and conditions as it deems necessary. A written application for waiver shall be filed with the city clerk setting forth provisions the applicant seeks to be exempt from and setting forth with specificity the reasons why such waiver should be granted. The following shall be the acceptable Waivers for Generators that may be approved by the City:

(a) **De Minimis Waivers:** The City of Loma Linda may, at its discretion, waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business:

- (1) Submits an application specifying the services that they are requesting a waiver from; and,
- (2) Provides documentation that either:
  - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
  - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste; and,
- (3) Notifies the City of Loma Linda if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and,
- (4) Provides written verification of eligibility for de minimis waiver every 5 years, if the City of Loma Linda has approved de minimis waiver.

(b) **Physical Space Waivers:** The City of Loma Linda may, at its discretion, waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City of Loma Linda has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this Chapter. A Commercial Business or property owner may request a physical space waiver through the following process:

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- (2) Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers, including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Provide written verification to the City of Loma Linda that it is still eligible for physical space waiver every five years, if the City of Loma Linda has approved application for a physical space waiver.

(c) **Collection Frequency Waiver:** The City of Loma Linda, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the City of Loma Linda's three-container Organic Waste collection service to arrange for the collection of their Blue Container, Gray Container, or both once

every fourteen days, rather than once per week.

- B. **Self Haul Permits.** Notwithstanding the requirements of Sections 8.12.010 and 8.12.020, the person responsible for day-to-day operations of any premises within the city, or the occupant thereof, may apply for a self-hauling permit to remove refuse or other waste matter from his or her own premises. Such a permit may be issued by the city public works department upon the payment of a fee as authorized by resolution of the city council of the City of Loma Linda, upon the showing that the proposed permittee owns an enclosed pickup truck or similar enclosed vehicle and upon proof of the permittee's compliance with this chapter of the municipal code of the city of Loma Linda by providing weekly receipts from an authorized landfill on a monthly basis. The permit shall be subject to revocation upon any violation of this chapter. The permittee shall have the right to dispute the revocation by appeal to the director of public works or designee within ten days of notice of revocation. The decision of the director of public works or designee shall be final.
- C. In addition to any other requirements for Self-haulers as contained in Chapter 8.12.190 B, the following shall also apply:
- (a) Authorized Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the City of Loma Linda otherwise requires generators to separate for collection in the City of Loma Linda's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City of Loma Linda. The records shall include the following information:
- (1) Delivery receipts and weight tickets from the entity accepting the waste.
  - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
  - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in subsection(c) to the City of Loma Linda or its authorized designee or other representative, if requested.
- D.. No person shall provide services as a hauler of recyclables within the boundaries of the City without being a franchised hauler with the City.

**8.12.200 Requirements for Single Family Generators**

Single-Family Organic Waste Generators, except Single-Family generators that meet all applicable Self-Hauler requirements in this Chapter:

(a) Shall subscribe to the City of Loma Linda's three-container Organic Waste collection services. The City of Loma Linda shall have the right to review the number, size, and location of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, generator shall adjust its service level for its collection services as requested by the City of Loma Linda.

(b) Shall participate in the City of Loma Linda's three-container system for Source Separated Recyclable Materials, Source Separated Green Container organic materials, and Gray Container Waste collection services. Generator participation in the collection programs requires that generators place only approved materials in the appropriate colored containers. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Notwithstanding the above, and in accordance with the SB 1383 Regulations, the City of Loma Linda is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until SB 1383 compliant colored containers are provided (Blue Container, Green Container, and Gray Container), Single-Family Waste Generators shall comply with the container label requirements.

(c) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

**8.12.201 Requirements for Commercial Businesses.**

Commercial Businesses, which includes Multi-Family Residential Dwellings of five (5) or more units, shall:

(a) Except Commercial Businesses that meet all applicable Self-Hauler requirements in this Chapter, subscribe to the City of Loma Linda's three-container Organic Waste collection services. The City of Loma Linda shall have the right to review the number, size, and location of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Business shall adjust its service level for its collection services as requested by the City of Loma Linda.

(b) Except Commercial Businesses that meet all applicable Self-Hauler requirements in this Chapter, participate in and comply with the City of Loma Linda's three-container (Blue Container, Green Container, and Gray Container) collection service by placing designated materials in designated containers. Generator shall place only approved materials in the appropriate colored containers. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Notwithstanding the above, and in accordance with the SB 1383 Regulations, the City of Loma Linda is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those

containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until SB 1383 compliant colored containers are provided (Blue Container, Green Container, and Gray Container), Commercial Businesses shall comply with the container label requirements.

(c) Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with subsections (d)(1) and (d)(2) below), for employees, contractors, tenants and customers, consistent with the City of Loma Linda's Blue Container, Green Container, and Gray Container collection service, or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.

(d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste, and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by the City of Loma Linda, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images or both indicating the primary material accepted and the primary materials prohibited in that container or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labels are required on new containers commencing January 1, 2022.

(e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement pursuant to 14 CCR Section 18984.9(b).

(f) To the extent practical through education, training, inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City of Loma Linda's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.

(g) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Container, Green Container, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(h) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

(i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source



Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.

(j) Provide or arrange access for the City of Loma Linda or its agent to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

(k) If implemented, accommodate and cooperate with the City of Loma Linda's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, to evaluate generator's compliance with this Chapter. The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and/or Gray Containers.

(l) If the Commercial Business wants to self-haul, meet all requirements of this Chapter of the Municipal Code.

(m) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(n) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of this Chapter.

#### **8.12.202 Requirements for Commercial Edible Food Generators.**

(a) Tier One Commercial Edible Food Generators must comply with the below requirements commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

(c) Commercial Edible Food Generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

(2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

(3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(4) Allow the City of Loma Linda's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

- (A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
- (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
- (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
  - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
  - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
  - (iii) The established frequency that food will be collected or self-hauled.
  - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(6) Commencing no later than January 1, 2022, for Tier One Commercial Edible Food Generators and January 1, 2024, for Tier Two Commercial Edible Food Generators, Commercial Edible Food Generators shall provide a quarterly Food Recovery report to the City of Loma Linda which includes the information required in 14 CCR Section 18991.4 "Record Keeping Requirements for Commercial Edible Food Generators."

(d) Nothing in this Section shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

#### **8.12.203 Requirements for Food Recovery Organizations and Services.**

- (a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
  - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
  - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
  - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.

- (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
  - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
  - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than January 1, 2023.
- (d) Food Recovery Capacity Planning - In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City or its designated entity, that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City of Loma Linda shall provide information and consultation to the City of Loma Linda, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City of Loma Linda and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City of Loma Linda shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City of Loma Linda.
- (e) Commencing no later than January 1, 2023, Food Recovery Services and Organization shall provide a quarterly report to the City of Loma Linda which includes the information required in 14 CCR Section 18991.5 "Food Recovery Services and Organizations."

#### **8.12.204 Requirements for Haulers and Facility Operators**

- A. Exclusive franchise hauler providing residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
1. Through written notice to the City on or before July 1, 2022, and annually thereafter, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.

2. Transport for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
3. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 8.12.205 of this Chapter, and Loma Linda Municipal Code Chapter 15.58.
4. The authorization of the exclusive franchise hauler to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license or other agreement entered into with City of Loma Linda.
5. Notwithstanding any the foregoing, nothing in this Chapter shall restrict or otherwise prohibit the authorized Hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

**B. Requirements for Facility Operators and Community Composting Operations**

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
2. Community Composting operators, upon City of Loma Linda request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

**8.12.205 Compliance with CALGreen Recycling Requirements**

- A. Persons applying for a permit from the City for new construction and building additions and alterations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the City of Loma Linda. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply. Project applicants shall refer to City of Loma Linda Municipal Code for complete CALGreen requirements.
- B. For projects covered by CALGreen or more stringent requirements of the City of Loma Linda, the applicants must, as a condition of the City's permit approval, comply with the following:
  1. Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container or Green Container materials, consistent with the three-container collection service program offered by the City, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1,

4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

2. New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Blue Container or Green Container materials, consistent with the three-container collection service program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended, provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
3. Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with City's C&D ordinance, Chapter 15.58 of the Loma Linda Municipal Code and all written and published City policies, ordinances, and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

#### **8.12.206 Model Water Efficient Landscaping Ordinance Requirements (MWELo)**

- A. Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo, including sections related to use of Compost and mulch as delineated in this Section 8.12.206.
- B. The following Compost and mulch use requirements that are part of the MWELo are now also included as requirements of this Chapter. Other requirements of the MWELo are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.
- C. (c) Property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in 8.12.206(A) above shall:
  1. Comply with Sections 492.6 (a)(3)(B),(C),(D) and (G) of the MWELo, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
    - a. For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
    - b. For landscape installations, a minimum three (3) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

c. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

2. The MWELo compliance items listed in this Section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in Chapter 8.12.100 (A) shall consult the full MWELo for all requirements.

D. If, after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELo September 15, 2015 requirements in a manner that requires Cities to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

#### **8.12.207 Procurement Requirements for City Departments, Direct Service Providers, and Vendors**

- A. City departments, and direct service providers to the City, as applicable must comply with the City's Recovered Organic Waste Product procurement policy and recycled-Content Paper procurement policy.
- B. All vendors providing Paper Products and Printing and Writing Paper shall:
1. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.
  2. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
  3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
  4. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
  5. Provide records to the City's Recovered Organic Waste Product procurement recordkeeping Designee, in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 8.12.207(B)(3) and (B)(4) of this Chapter for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled- Content Paper Products or Printing and Writing Papers were not provided.

#### **8.12.208 Inspections and Investigations by City**

- A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this Chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- B. Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's personnel or its Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises or (ii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.
- C. Any records obtained by the City during its Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act set forth in Government Code 6250, et seq.
- D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.
- E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

#### **8.12.209 General penalty**

Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by City Enforcement Official or representative. Enforcement Actions under this Chapter include, but are not limited to, issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

- A. Other remedies allowed by law may be used for enforcement, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

B. Responsible Entity for Enforcement

1. Enforcement pursuant to this Chapter may be undertaken by the City Enforcement Official, which may be the City Manager or his/her designee, legal counsel, or combination thereof.
  - a. The City Enforcement Official or his/her designee will interpret this Chapter; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
  - b. The City Enforcement Official or his/her designee may issue Notices of Violation(s).

C. Process for Enforcement

1. City of Loma Linda Enforcement Officials and/or their Designee will monitor compliance with this Chapter randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Section 8.12.208 establishes City's right to conduct Inspections and investigations.
2. City may issue an official notification to notify regulated entities of its obligations under this Chapter.
3. For incidences of Prohibited Container Contaminants found in containers, City will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within three (3) weeks after determining that a violation has occurred.
4. With the exception of violations of generator contamination of container contents addressed under Section 8.12.210(C)(3) above, City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
5. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an Enforcement Action to impose penalties, via an administrative citation and fines as set forth in Loma Linda Municipal Code Section 1.12.010.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

D. Compliance Deadline Extension Considerations. The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 8.12.210 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals; or,



3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

E. Appeals Process. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to the appeal procedures in Loma Linda Municipal Code Section 9.24.120.

F. Education Period for Non-Compliance. Beginning on or after January 1, 2022 and through December 31, 2023, City will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with this Chapter, and if City determines that Organic Waste Generator, hauler, Self-Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

G. Civil Penalties for Non-Compliance. Beginning January 1, 2024, if the City or its designee determines than an Organic Waster Generator, hauler, Self-Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service or other entity is not in compliance with this Chapter, it shall document that noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section 8.12.210, as needed.

**SECTION 3. Validity.** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect this validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

**SECTION 4. Effective Date.** This Ordinance shall be in full force and effect thirty (30) days after passage.

**SECTION 5. Posting.** The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.


This Ordinance was introduced at the regular meeting of the City Council of the City of Loma Linda, California, held on the 16th day of June, 2022, and was adopted on the 28th day of June, 2022, by the following vote to wit:

Ayes: Dupper, Dailey, Rigsby, Lenart, Jindal

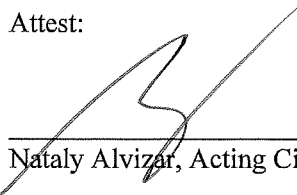
Noes: None

Abstain: None

Absent: None

  
\_\_\_\_\_  
Phil Dupper, Mayor

Attest:

  
\_\_\_\_\_  
Nataly Alvizar, Acting City Clerk